

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: StaceyAnn McFarlane-Ross	Team: Squad #1	CCRB Case #: 201806472	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 07/27/2018 3:00 PM	Location of Incident: At the 66th Precinct stationhouse	Precinct: 66	18 Mo. SOL 1/27/2020	EO SOL 1/27/2020	
Date/Time CV Reported Fri, 07/27/2018 6:22 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/08/2018 11:07 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Marcos Oviedo	16185	957926	066 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Lauren Wechter	07209	939679	DBBN
2. POM Cody Pantaleo	00834	965395	066 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Marcos Oviedo	Abuse: Police Officer Marcos Oviedo failed to secure medical treatment for § 87(2)(b)	
B.POM Marcos Oviedo	Abuse: Police Officer Marcos Oviedo threatened to arrest § 87(2)(b)	
C.POM Marcos Oviedo	Abuse: Police Officer Marcos Oviedo failed to secure medical treatment for § 87(2)(b)	

Case Summary

On July 27, 2018, § 87(2)(b) filed this complaint via telephone with the NYPD Internal Affairs Bureau. It was referred to the CCRB and received on August 8, 2018.

On July 27, 2018, at approximately 3pm, PO Marcos Oviedo, from the 66th Precinct, arrested § 87(2)(b) for § 87(2)(b) and transported him to the 66th Precinct stationhouse. § 87(2)(b) allegedly asked PO Oviedo to either call an ambulance or take him home to retrieve his medication. PO Oviedo did not call an ambulance for § 87(2)(b) (**Allegation A: Abuse of Authority,** § 87(2)(g))

PO Oviedo released § 87(2)(b) with a desk appearance ticket and escorted him outside of the stationhouse. § 87(2)(b) attempted to re-enter the stationhouse to call a car service. PO Oviedo allegedly told him, “You can’t go in and if you try to go in, I’m going to arrest you” (**Allegation B: Abuse of Authority,** § 87(2)(g)) § 87(2)(b) again asked PO Oviedo to call him an ambulance as he was unable to take his medication, but PO Oviedo allegedly refused (**Allegation C: Abuse of Authority,** § 87(2)(g)) § 87(2)(b) then left the stationhouse.

The investigation obtained stationhouse video surveillance which captured part of the incident (Board Review 03, 13, 14).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Marcos Oviedo failed to secure medical treatment for § 87(2)(b)

§ 87(2)(b) reported to IAB (Board Review 01, 04) that he takes medication for a liver transplant and asked PO Oviedo to take him home and then bring him back to the stationhouse. During § 87(2)(b)'s phone statement to the CCRB (Board Review 02), he did not mention his liver transplant medication. In § 87(2)(b)'s sworn statement, taken over three months after the incident due to a delay in mediation (Board Review 05), he testified that approximately an hour after he was placed in the cells, PO Oviedo came to check on him and asked if he needed help. At that moment, § 87(2)(b) informed PO Oviedo that he had a liver transplant a few years prior and was currently on anti-rejection medication. PO Oviedo asked § 87(2)(b) if he needed the medication at that moment, and § 87(2)(b) informed him that the medication had to be taken within 20 minutes. § 87(2)(b) then asked PO Oviedo to either call an ambulance or take him home to retrieve his medication. PO Oviedo responded, “Don’t worry about it. Give me five minutes.” PO Oviedo returned to § 87(2)(b) approximately one hour later. § 87(2)(b) told PO Oviedo, “You’re denying me my request.” PO Oviedo again informed § 87(2)(b) that he would be done in five minutes. Approximately three hours after that, PO Oviedo released § 87(2)(b) with a DAT.

The 66th Precinct Command Log documented that § 87(2)(b) was logged in at 1520 hours and released with a DAT at 1655 hours. His physical/mental condition is listed as normal (Board Review 15).

PO Oviedo (Board Review 06) testified that after he placed § 87(2)(b) inside of his cell, § 87(2)(b) banged on the cell gate. He informed § 87(2)(b) that he would be released with a

DAT. § 87(2)(b) asked to be released but he did not say why he needed to be released. During the time that § 87(2)(b) was inside of the station, he did not inform PO Oviedo that he takes medication, ask for an ambulance, or ask for medical attention.

PO Cody Pantaleo (Board Review 07) testified that on that day, he was assigned as the 66th Precinct telephone switchboard operator. PO Pantaleo did not recall any part of this incident.

PO Lauren Wechter (Board Review 08) testified that she was initially assigned as stationhouse security but had a post change prior to § 87(2)(b)'s arrival at the stationhouse. She was not sure when she returned to the stationhouse and did not recall witnessing any part of the incident.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Marcos Oviedo threatened to arrest

§ 87(2)(b)

It is undisputed that § 87(2)(b) asked PO Oviedo to drive him somewhere upon his release, that PO Oviedo refused, and that PO Oviedo threatened to arrest § 87(2)(b)

§ 87(2)(b) testified that when he was released with a DAT, PO Oviedo escorted him outside of the stationhouse. As § 87(2)(b) stood outside of the stationhouse with PO Oviedo he asked PO Oviedo to take him to his car, which was parked approximately 20 blocks away. PO Oviedo informed § 87(2)(b) that he could not do that. § 87(2)(b) was going to use his cell phone to call a car service but the battery was dead. § 87(2)(b) then asked PO Oviedo if he could re-enter the stationhouse to call a car service. PO Oviedo told him no. § 87(2)(b) asked PO Oviedo why he could not go inside and PO Oviedo responded, "You can't go in and if you try to go in, I'm going to arrest you." § 87(2)(b) asked PO Oviedo what he could be arrested for and was told, "Don't worry, we'll think of something."

PO Oviedo testified that § 87(2)(b) was released with a DAT approximately one and half hours after being placed inside of his cell. Once PO Oviedo escorted § 87(2)(b) outside of the stationhouse, he refused to leave. § 87(2)(b) asked PO Oviedo to take him home and PO Oviedo refused. PO Oviedo explained that although § 87(2)(b) was free to go, he went back inside of the stationhouse. Approximately three to four times § 87(2)(b) passed the designated civilian waiting area yelling for someone to take him home. At one-point § 87(2)(b) attempted to record inside of the stationhouse and PO Oviedo told § 87(2)(b) that he could not record and asked § 87(2)(b) to leave the stationhouse multiple times. Approximately 15 minutes later, § 87(2)(b) was still inside of the stationhouse lingering, and PO Oviedo threatened to arrest § 87(2)(b) for trespassing. § 87(2)(b) informed PO Oviedo that he would call IAB and he did so in front of PO Oviedo.

Stationhouse video footage (Board Review 03 (requires Gentec video player – only Board Review 03 shows time stamps), 13, 14) was obtained from two angles, both the stationhouse vestibule and in front of the stationhouse. The video shows PO Oviedo walk out of the stationhouse, followed by § 87(2)(b) at 4:57 pm. PO Oviedo stands outside the stationhouse and smokes a cigarette while § 87(2)(b) stands in the doorway, holding the door open, while speaking with PO Oviedo. There is no audio. § 87(2)(b) take a few steps back into the precinct several times while keeping his hand on the door, and then returning to speak with PO Oviedo. On one occasion, PO Oviedo gestures to § 87(2)(b) to come back outside. § 87(2)(b) remains in the doorway for approximately two minutes before exiting and remaining on the front step of the stationhouse. At 5:00 pm, § 87(2)(b) is dialing a number on his cell phone. At 5:02 pm, PO Oviedo re-enters the stationhouse and § 87(2)(b) leaves. At no point is § 87(2)(b) observed going inside beyond the vestibule.

§ 87(2)(g)

According to the New York State Penal Law, Section 140.05, a person is guilty of trespassing when he knowingly enters or remains unlawfully in or upon premises (Board Review 12).

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Marcos Oviedo failed to secure medical treatment for § 87(2)(b)

§ 87(2)(b) testified that after PO Oviedo threatened to arrest him, he asked PO Oviedo to call an ambulance as he was unable to take his medication at the scheduled time. PO Oviedo told § 87(2)(b) “No, I can’t do that because you’re released now. You have a desk warrant to appear.” § 87(2)(b) informed PO Oviedo that he needed his medication or to get home and PO Oviedo told § 87(2)(b) that it was not his problem. After that, § 87(2)(b) walked home. Following the incident, § 87(2)(b) became ill with pneumonia but did not seek medical treatment as he had leftover antibiotics at home.

PO Oviedo testified that § 87(2)(b) did not mention anything about his medication when he was released and § 87(2)(b) did not ask him to call an ambulance. PO Oviedo explained that if § 87(2)(b) asked for an ambulance, he would have called for one.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 10).
- PO Oviedo has been a member of service for four years and has been a subject in one CCRB complaint involving two allegations, neither of which was substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- On August 30, 2018, this case was sent to mediation and on October 26, 2018, the case was returned to investigation as the complaint was no longer eligible for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of March 11, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 09).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date